

HOUSE BILL REPORT

SSB 5166

As Passed House - Amended:

April 9, 2009

Title: An act relating to license suspension for the failure to pay child support.

Brief Description: Modifying license suspension provisions for the failure to pay child support.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Stevens and Kline).

Brief History:

Committee Activity:

Judiciary: 3/16/09, 3/19/09 [DPA].

Floor Activity

Passed House - Amended: 4/9/09, 98-0.

Brief Summary of Substitute Bill (As Amended by House)

- Restructures for clarity the statute governing procedures for suspending a person's driver's license and other licenses if the person fails to pay child support.
- Requires an administrative hearing judge to determine if the parent made a good faith effort to comply with the child support order.
- Specifies that a payment plan must take into consideration certain factors, may be for less than the current monthly support amount for a reasonable time, and is not required to include a lump-sum payment for the amount of past due support.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Trudes Tango (786-7384)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Federal law requires states to have procedures for the suspension or restriction of a person's driver's license, professional and occupational license, and recreational and sporting licenses if the person owes past child support. If the state fails to have such procedures, it may result in the loss of federal funds to the state's Temporary Assistance to Needy Families block grant. Within the directive of the federal law, states have some discretion in implementing their license suspension program.

Under Washington's license suspension program, the Department of Social and Health Services (DSHS) may serve an obligated parent with a notice of noncompliance if the parent fails to pay his or her support when due. By rule, the DSHS generally uses this enforcement tool when a parent is six months or more behind in child support. The DSHS serves the parent with a notice informing the parent of the DSHS's intent to submit the parent's name to the Department of Licensing and other licensing entities for license suspension.

A parent may request a hearing within 20 days of service of the notice. The only issues to be considered at the hearing are whether the person named on the notice is the parent, whether the parent is required to pay support under an order, and whether the parent is in compliance with the order.

A parent may also contact the DSHS within 20 days of service of the notice and request arrangement of a payment schedule. The DSHS will stay the license suspension action for up to 30 days during negotiations. The DSHS must establish a schedule that is fair and reasonable and that considers the financial situation of the parent and the needs of all children who rely on the parent for support.

The parent may also file a motion in court or with the DSHS to modify the child support order. The license suspension action may be stayed if there is a reasonable likelihood that the pending motion to modify will significantly change the amount of the child support obligation. The stay cannot exceed six months unless there is good cause to extend the stay.

Summary of Amended Bill:

The statute specifying the notice to parents is restructured for clarity. In addition, if the parent requests a hearing, the administrative hearing judge must determine whether the parent has made a good faith effort to comply with the support order. The DSHS may only certify the parent to the licensing entities if the hearing results in a finding that the parent is not in compliance and the parent has not made a good faith effort to comply. "Good faith effort to comply" is a factual determination made by the hearing judge based on the parent's payment history, ability to pay, and efforts to find and keep gainful employment.

If the parent is not in compliance but has made a good faith effort to comply, the hearing judge must formulate a payment schedule for the parent. In establishing a payment plan, consideration must be given to the amount of past due support, the amount of current support, the earnings of the parent, and the individual financial circumstances of each parent. A payment schedule may include a graduated payment plan and may require a parent to engage in employment-enhancing activities to attain a satisfactory payment level. A

payment schedule may be for the payment of less than the amount of current monthly support for a reasonable time and is not required to include a lump sum payment for the amount of past child support due.

The notice of noncompliance that a parent receives must include language stating that commercial fishing licenses may be suspended and license suspensions by the Department of Fish and Wildlife (DFW) may also affect the person's ability to obtain permits issued by the DFW.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is important for parents to live up to their obligations to their children, but it also makes sense to allow people to continue going to work so they can pay their child support. If a parent is making an honest attempt to pay, that parent should not be penalized. It is counter-intuitive to take away a person's method of getting to work when the person is unable to make payments on their obligations. The purpose is not to punish people when they are making good faith efforts to comply with their child support orders. The bill is consistent with the Department of Social and Health Services' goal of working with parents to achieve individualized payment plans. Making driving while license suspended a traffic infraction would impose yet another fine on the parent who already cannot pay his or her support. The driving while license suspended section was not in the original bill and not part of the original agreement.

(Opposed) None.

Persons Testifying: Senator Regala, prime sponsor; David Stillman, Department of Social and Health Services; Bob Cooper, Washington Defenders Association and Washington Association of Criminal Defense Lawyers; and Lonnie Johns-Brown, National Organization of Women.

Persons Signed In To Testify But Not Testifying: None.